

IN THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF TENNESSEE

IN RE:	}	
Darlene H. McGilvray	}	
9178 Christopher Ashley Drive	}	Case No. 11-09285
Lyles, TN 37098	}	Chapter 13
SSN: xxx-xx-6237	}	Judge Keith M. Lundin
Debtor.	}	

THE DEADLINE FOR FILING A TIMELY RESPONSE IS: April 4, 2016
IF A RESPONSE IS TIMELY FILED, THE HEARING WILL BE: Friday, April 22, 2016
at 9:00 a.m. in the Old Post Office and Courthouse, 815 South Garden, Columbia, TN 38401

NOTICE OF MOTION TO MODIFY CHAPTER 13 PLAN

The Debtor has asked the Court for the following relief: permission to modify Chapter 13 plan.

YOUR RIGHTS MAY BE AFFECTED. IF YOU OR YOUR ATTORNEY DO NOT FILE A RESPONSE TO THIS MOTION BY THE DEADLINE ESTABLISHED ABOVE, YOUR SILENCE WILL BE DEEMED AS ACCEPTANCE OF THE RELIEF SOUGHT IN THIS MOTION.

If you do not want the court to grant the attached motion, or if you want the court to consider your views on the motion, then on or before April 4, 2016 you or your attorney must:

1. File with the court your written response or objection explaining your position at:

By Mail: U.S. Bankruptcy Court, 701 Broadway, Room 170, Nashville, TN 37203
In Person: U.S. Bankruptcy Court, 701 Broadway, Room 170, Nashville, TN 37203
(Monday- Friday, 8:00 a.m. – 4:00 p.m.)

2. Your responses must state that the deadline for filing responses: April 4, 2016, the date of the scheduled hearing is: April 22, 2016 and the motion to which you are responding is: MOTION TO MODIFY CHAPTER 13 PLAN.

If you want a file stamped copy returned, you must include an extra copy and a self-addressed, stamped envelope.

3. You must also mail a copy of your response to:

James A. Flexer, 1900 Church Street, Suite 400, Nashville, TN 37203, and see Certificate of Service for additional parties to serve (attached hereto)

If a timely response is filed, the hearing will be held at the time and place indicated above. ***THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.*** You may check whether a timely response has been filed by calling the Clerk's office at 615-736-5584 or viewing the case on the Court's web site at www.tnmb.uscourts.gov. If you received this notice by mail, you may have three additional days in which to file a timely response under Rule 9006(f) of the Federal Rules of Bankruptcy Procedure.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting relief.

Date: 3/14/2016

Signature: /s/ James A. Flexer

Name: Law Offices of James A. Flexer

Address: 1900 Church Street, Suite 400, Nashville, TN 37203

Email: cm-ecf@jamesflexerconsumerlaw.com

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Debtor.	}	

MOTION TO MODIFY CHAPTER 13 PLAN AND NOTICE OF PROPOSED ACTION

COMES NOW the Debtor, by and through counsel, and would move this Honorable Court for permission to modify the Chapter 13 plan pursuant to 11 U.S.C. § 1329.

The Debtor's Chapter 13 proceeding was filed on September 16, 2011 and a plan was confirmed on November 22, 2011 paying a dividend of 1% to general unsecured creditors.

As grounds, the Debtor would state the following:

1. The Debtor seeks permission to modify her Chapter 13 plan to reduce the payment to the Chapter 13 Trustee and reduce the base.
2. There has been a material change in the Debtor's circumstances. The Debtor recently modified her home mortgage payments, but she is still having issues funding her Chapter 13 plan and meeting her monthly living expenses at the present required Chapter 13 payment. The Debtor's monthly expenses have increased due to needing to pay homeowner's insurance following a recent loan modification; and, her medical expenses increased each month due to her disability and health issues. A modification will allow the Debtor to continue to feasibly fund her Chapter 13 plan.
3. The Debtor's Chapter 13 plan allows the proposed modification and it will allow the Debtor to successfully reorganize her estate and complete her Chapter 13 Plan within 60 months.
4. An amended monthly family budget is attached hereto along with a certification of the Debtor in support of the feasibility of this motion.

STATEMENT OF IMPACT

5. The Debtor's Chapter 13 payment shall decrease to \$750.00 bi-weekly.
6. The dividend to general unsecured creditors shall remain at 1%.
7. The base shall be \$114,933.00, increased by tax refunds.
8. The Debtor shall continue to surrender her yearly tax refunds to the Chapter 13 Trustee to increase the plan base in compliance with the order confirming Chapter 13 plan
9. There shall be no change in treatment to secured creditors.
10. No other terms of the confirmation order shall be affected by this modification.

Respectfully submitted,

/s/ Bryan C. Penland

James A. Flexer, BPR #9447

Bryan C. Penland, BPR #025631

Attorney for Debtor

Law Offices of James A. Flexer

13 Public Square

Columbia, TN 38401

(931) 375-0006

fax: (931) 375-0010

Email: cm-ecf@jamesflexerconsumerlaw.com

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

IN RE:)		
Darlene H. McGilvray)	Case No.	11-09285
)	Chapter	13
Debtor(s).)	Judge	Keith M. Lundin

AMENDED MONTHLY FAMILY BUDGET

Dates of Budgets:	<u>Prior Budget*</u>	<u>Current Budget*</u>
	3/31/2014	1/28/2016

EXPENSES

Rent/Mortgage Payment:

Utilities:

	Prior*	Current*
Electric	\$ 125.00	\$ 150.00
Water	\$ 35.00	\$ 40.00
Heat		
Telephone/Internet	\$ 55.00	
Cell Phone	\$ 50.00	\$ 50.00
Phone/Internet/cable	\$ 50.00	\$ 110.00
Other ()		

Total Utilities:

\$	315.00	\$	350.00
\$	300.00	\$	300.00
\$	60.00	\$	60.00
\$	51.00	\$	150.00
\$	150.00	\$	150.00

Food

Clothing/laundry/dry cleaning

Childcare & Children's education

Entertainment/recreation

Medical & Dental Expenses

Transportation

Insurance (not deducted from wages)

Auto	\$ 91.00	\$ 91.00
Life		\$ 42.00
Home		\$ 183.00
Health (dental)	\$ 30.00	\$ 35.00
Other ()		

Total Insurance:

\$	121.00	\$	351.00
\$	50.00	\$	50.00
\$	25.00	\$	25.00
\$	35.00	\$	43.00

Personal Care Products/services

Home Maintenance

Haircuts/toiletries/cleaning

Pet/vet expense

TOTAL MONTHLY EXPENSES

\$	1,107.00	\$	1,479.00
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INCOME

Debtor's Gross Income:

Spouse's Gross Income:

Payroll Deductions

Prior*

Current*

Taxes

401(k) contr

Ins.

Total Payroll Deductions

Other Regular Income:

Social Security

Long Term Disability

Total Other Regular Income

TOTAL MONTHLY INCOME:**SUMMARY:****Total Monthly Income (from above)****minus Total Monthly Expenses (from page 1)****equals Monthly Surplus**

Monthly Plan Payment

Duration of Plan (months)

Dividend to Unsecured Creditors (%)

Secured Creditors Affected

Prior Budget***Current Budget***

\$ - \$ -

\$ 3,183.00 \$ 3,104.00

\$ 3,183.00 \$ 3,104.00

\$ 3,183.00 \$ 3,104.00

\$ 1,107.00 \$ 1,479.00

\$ 2,076.00 \$ 1,625.00

\$ 2,076.00 \$ 1,625.00

60 60

1 1

* Explain any increase or decrease in income, expenses, or dividend that exceeds 10%:

Debtor will pay homeowner's insurance directly following loan modification. Debtor's medical expenses have increased due to copays to specialists each month related to her disability, as well as expenses to due to vision/glaucoma. Decrease in Debtor's social security is due to medicare premium.

Barbara H. Miley

(Debtor)

1-28-2016

(Date)

(Debtor)

(Date)

DRAFT

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Debtor.	}	

PROPOSED ORDER GRANTING MOTION TO MODIFY CHAPTER 13 PLAN

It appears to the United States Bankruptcy Court for the Middle District of Tennessee that the Debtor filed a Motion to Modify Chapter 13 plan and notice of said motion has been given pursuant to L.B.R. 9013-1 to all parties in interest. It further appears to the Court that twenty-one (21) days have elapsed since the date of service of the motion and no responses have been forthcoming from any party in interest.

It is therefore ORDERED as follows:

1. The Debtor shall be allowed to modify her Chapter 13 plan.
2. The Debtor's Chapter 13 payment shall decrease to \$750.00 bi-weekly.
3. The dividend to general unsecured creditors shall remain at 1%.
4. The base shall be \$114,933.00, increased by tax refunds.
5. The Debtor shall continue to surrender her yearly tax refunds to the Chapter 13 Trustee to increase the plan base in compliance with the order confirming Chapter 13 plan
6. There shall be no change in treatment to secured creditors.
7. No other terms of the confirmation order shall be affected by this modification.

IT IS SO ORDERED.

This order was electronically signed and entered as indicated at the top of the first page

APPROVED FOR ENTRY:

/s/ Bryan C. Penland

James A. Flexer, BPR #9447

Bryan C. Penland, BPR #025631

Attorney for Debtor

Law Offices of James A. Flexer

13 Public Square

Columbia, TN 38401

(931) 375-0006

fax: (931) 375-0010

Email: cm-ecf@jamesflexerconsumerlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on March 14, 2016 I furnished a true and correct copy of the foregoing to the following parties in interest:

Henry E. Hildebrand, III	Electronic
Chapter 13 Trustee	
P.O. Box 340019	
Nashville, TN 37203-0019	

Samuel K. Crocker	Electronic
U.S. Trustee	
318 Customs House	
701 Broadway	
Nashville, TN 37203	

Darlene H. McGilvray	U.S. mail first class
9178 Christopher Ashley Drive	
Lyles, TN 37098	

And to all the creditors on the attached matrix.
I have sent 32 notices via U.S. mail first class.

/s/ Bryan C. Penland
Bryan C. Penland

1:11-bk-09285 DARLENE H MCGILVRAY

Case type: bk Chapter: 13 Asset: Yes Vol: v Judge: Keith M Lundin

Date filed: 09/16/2011 Date of last filing: 02/09/2016 Plan confirmed: 11/22/2011

Creditors

ASHLEY E BISHOP	(4496547
200 SONDRRA COURT)
Mount Juliet TN 37122	(cr)
Asset Acceptance Llc	(4496548
Attn: Bankruptcy)
PO Box 2036	(cr)
Warren MI 48090	
Awa Collect	(4496549
P O Box 6605)
Orange CA 92613	(cr)
Brightwater Capital Ll	(4496550
850 Concourse Pkwy S Ste)
Maitland FL 32751	(cr)
BSI Financial Services, Inc.	(5411458
314 S Franklin Street)
Titusville, Pennsylvania 16354	(cr)
CANDICA, LLC	(4546636
C O WEINSTEIN AND RILEY, PS)
2001 WESTERN AVENUE, STE 400	(cr)
SEATTLE, WA 98121	
Capital One, N.a.	(4496551
Capital One Bank (USA) N.A.)
PO Box 30285	(cr)
Salt Lake City UT 84130	
Capitol Chevrolet Inc.	(5494803
dba Capitol Chevrolet Leasing)
711 Eastern Blvd.	(cr)
Montgomery, AL 36117	
Chase	(4496552
Po Box 15298)
Wilmington DE 19850	(cr)
Chase Bank USA, N.A.	(4541072
PO Box 15145)
Wilmington, DE 19850-5145	(cr)
CHECK INTO CASH OF TN	(4496553
STORE #015)
123 HENSLEY DRIVE	(cr)
Dickson TN 37055	
CHECK INTO CASH, INC	(4608341
ATTN: COLLECTIONS)
P.O. BOX 550	(cr)
CLEVELAND, TN 37364-0550	
Chela/Sallie Mae	(4496554
Attn: Claims Department)
PO Box 9500	(cr)
Wilkes-Barre PA 18773	

CITIBANK	(4496555
PO BOX 6500)
Sioux Falls SD 57117	(cr)
DICKSON MEDICAL ASSOCIATES	
% PROFESSIONAL ADJUSTMENT SERVICE	(4571166
DBA PAYMENT AMERICA SYSTEMS)
PO BOX 24850	(cr)
NASHVILLE TN 37202	
Elite Enterprise Services, LLC	(4539848
PO Box 134)
Worcester, MA 01613	(cr)
Fifth Third Bank	
Fifth Third Bank Bankruptcy Department,	(4496556
1830 E Paris Ave SE)
Grand Rapids MI 49546	(cr)
FLAGSTAR BANK	
ATTN BANKRUPTCY DEPT	(4496558
5151 CORPORATE DR)
Troy MI 48098	(cr)
Flagstar Bank	
Attn: Bankruptcy Dept	(4496557
5151 Corporate Dr)
Troy MI 48098	(cr)
KHEAA	(4617107
P O BOX 798)
Frankfort, KY 40602-0798	(cr)
Midland Credit Management	
8875 Aero Dr	(4496559
Suite 200)
San Diego CA 92123	(cr)
Midland Credit Management, Inc.	(4511264
8875 Aero Drive, Suite 200)
San Diego, CA 92123	(cr)
National Capital Management, LLC.	
8245 Tournament Drive	(4854338
Suite 230)
Memphis, TN 38125	(cr)
Nco Fin /99	(4496560
Po Box 15636)
Wilmington DE 19850	(cr)
Nco Fin/09	
Attention: Bankruptcy	(4496561
507 Prudential Rd)
Horsham PA 19044	(cr)
Portfolio Recovery Associates, LLC	(5425611
POB 41067)
Norfolk, VA 23541	(cr)
Portfolio Recovery Associates, LLC	(5581075
POB 12914)
Norfolk VA 23541	(cr)
PRA Receivables Management, LLC., as agent of	(4601880
Portfolio Recovery Associates, LLC)
POB 41067	(cr)
Norfolk, VA 23541	

Revenue Recovery Corp	(4496562
409 B P C)
Knoxville TN 37919	(cr)
Sallie Mae Trust	(4537945
c/o Sallie Mae Inc.)
220 Lasley Ave	(cr)
Wilkes-Barre, PA 18706	
SHELL CITIBANK	(4496563
PO BOX 790070)
Houston TX 77279	(cr)
Victoria's Secret	(4496564
Attention: Bankruptcy)
PO Box 182125	(cr)
Columbus OH 43215	
WEISS SPICER CASH, PLLC	(4496565
208 ADAMS AVE.)
Memphis TN 38103-1991	(cr)
Wffnatbank	(4496566
Po Box 94498)
Las Vegas NV 89193	(cr)
Wfnnb/peeble	(4496567
Attention: Bankruptcy)
PO Box 182686	(cr)
Columbus OH 43218	
World Financial Network National Bank	(4509875
Quantum3 Group LLC)
PO Box 788	(cr)
Kirkland, WA 98083-0788	